

REMARKS

Applicants reply to the Final Office Action dated November 15, 2006 within two months. Thus, Applicants request an Advisory Action, if necessary. Claims 1-14 and 26-36 were pending in the application and the Examiner rejects claims 1-14 and 26-36. Reconsideration of the pending claims is requested. The amendments are adequately supported in the originally-filed specification, drawings and claims. No new matter is added in this Reply.

Specification Objections

The Examiner objects to the disclosure, “because it contains embedded references to unavailable, external, third-party materials, which materials are neither currently available, nor part of the instant prosecution record” (page 3, item 5). Applicants traverse the Examiner’s objection; however, to expedite prosecution, Applicants amend the specification to remove the hyperlinks and unavailable reference, as requested by the Examiner.

Claims Rejected under 35 U.S.C. § 112, First Paragraph

The Examiner rejects claim 33 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most closely connected, to make and/or use the invention. Specifically, the Examiner asserts that the “specification fails to disclose, in an adequately enabling manner, how the ‘VoIP’ embodiment would function” (page 3, item 7). Applicants have amended independent claim 33 to remove a reference to a VoIP device; however, Applicants maintain that the originally-filed specification discloses the use of the presently claimed invention to tax VoIP embodiments.

Claims Rejected under 35 U.S.C. § 103

The Examiner rejects claims 1-14 and 26-36 under 35 U.S.C. § 102(e) as being anticipated by Sullivan, U.S. Patent Number 6,424,979 (“Sullivan”). Applicants respectfully traverse this rejection.

In the Response to Arguments, the Examiner states that Sullivan discloses a tax directory that is, “configured to at least one of: ‘route said transaction to said identified tax authorities,’ and, ‘return a list of said identified tax authorities to said personal communications device,’ since enabling payment of the appropriate taxes to the pertinent authorities is the express point of the Sullivan system” (page 8, item 13). Applicants note that the Examiner maintains the rejection

based on the expressed purpose of Sullivan (*e.g.*, ensuring compliance with taxing authorities) in relation to Applicants' disclosure, without addressing Applicants' previously filed arguments in regard to the precise manner by which this is accomplished.

First, a distinction must be made between Sullivan's "transaction tax compliance system" and the disclosed "tax authorities." The transaction tax compliance system is separate and distinct from the tax authorities, which may include, for example, the Internal Revenue Service (IRS), Arizona Department of Revenue, Maricopa County Assessor, and the like. Tax authorities are Federal and State agencies that ensure compliance with tax laws and regulations. The "transaction tax compliance system" of Sullivan receives transaction information from a requestor (*e.g.*, merchant and consumer) for the purpose of calculating applicable taxes based on a number of criterions. The Sullivan system includes a "tax rate manager" that uses transaction information with taxation data from its own databases to perform the calculations and return a taxable amount to the requestor. However, it is important to note that **there is absolutely no disclosure within Sullivan that would suggest that the transaction information is routed directly to the appropriate tax authorities** where the appropriate tax amounts are calculated, as recited by the instant claims. In other words, at no time is the transaction data seen by the taxing authority (*e.g.*, IRS) for the purpose of calculating taxes at the tax authority. However, if the Examiner maintains this rejection, Applicants respectfully request that the Examiner specifically recite the relevant portions of Sullivan that would support the rejection. In light of the above clarification, Applicants request consideration of the following arguments in light of the current claims.

Sullivan generally discloses a tax calculator that receives purchase information from a retailer and provides a tax amount in return. Specifically, the Sullivan system allows sellers or purchasers to calculate, record, and report tax liabilities. The system calculates tax amounts based on applicable international, federal, state, and local tax rates. The Sullivan system also takes into consideration product and/or service exemptions, entity exemptions, and rounding.

According to Sullivan, sellers and purchasers, through their billing systems, cash registers, and web sites, transmit transaction details to the tax compliance system. The tax liability is calculated and transmitted back to the input source for application to the purchase price. Sullivan's tax compliance system also records the tax liability for future use in computing a tax return, defending an audit, or for tax planning.

When the Sullivan system receives transaction information from the seller, it determines the proper taxing authorities and retrieves the corresponding calculations from storage. The system then performs the calculations and returns the summed tax amount to the seller to consummate the transaction. Sullivan discloses a number of components used in the calculation of taxes such as, for example, a tax transaction calculator, an address manager, a tax rate manager, an exemption manager, and a tax information manager. All of these modules are centrally located, meaning that all requests are transmitted to, and processed by, the centralized taxation system of Sullivan. Rather than identifying the proper taxation authorities and routing transaction information to each taxation authority, the Sullivan system calculates taxes on behalf of all relevant taxing authorities. As a result, stringent administration of the Sullivan system would not only be vital, but extremely difficult to maintain. An administrator of the Sullivan taxation system would need to be immediately aware of tax changes occurring over hundreds, if not thousands, of distinct taxing authorities.

According to Sullivan, “applicable tax rate(s) may be specified by the selling/purchasing system or retrieved from a standard tax rate database 112 which associates a tax rate with a tax situs and tax type” (paragraph 0051). The “standard tax rate database 112” is clearly illustrated in figure 1, and described in reference to the figure, as being a component of the transaction tax compliance system 200. Thus, when a tax is computed based on transaction information received from a point of sale system, the tax rate is determined based on the static rate data stored in the standard tax rate database 112. Sullivan does not disclose how such values are maintained in the database; however, one of ordinary skill may logically conclude that the system would either receive a feed from various taxing authorities at pre-determined intervals or query the taxing authorities in order to update the database of the tax compliance system to capture any tax rate changes.

Regardless of the method used to maintain the tax rate database, as well as the other various databases disclosed by Sullivan, the system as disclosed is susceptible to inaccurate tax calculations due to the fact that a stored tax rate may be outdated, even if only by one day. Sullivan could possibly overcome this problem by electronically routing the purchase information to the relevant taxing authorities directly where the accuracy of the tax rate applied would be ensured. However, Sullivan includes no such disclosure and it would be impermissible hindsight reconstruction to infer such a disclosure. As such, Sullivan does not disclose or

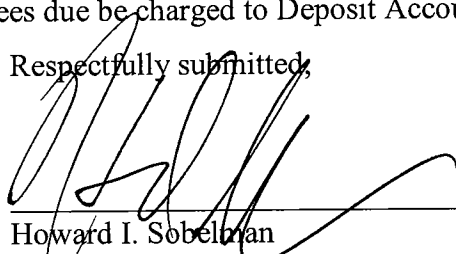
suggest at least, "said tax directory configured to at least one of route transaction information to said identified tax authorities and return a list of said identified tax authorities to said personal communication device," and "a tax authority calculator corresponding to each of said tax authorities, said tax authority calculator configured to facilitate determination of a tax rate on said transaction," as similarly recited by independent claims 1, 26, 30, and 34.

Claims 2-14, 27-29, 31-33, and 35-36 variously depend from independent claims 1, 26, 30, and 34. As such, dependent claims 2-14, 27-29, 31-33, and 35-36 are differentiated from the cited reference for at least the reasons set forth above, as well as in view of their own respective features.

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application. Applicants authorize and respectfully request that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,

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